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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,743	11/21/2003	Matias Duarte	4676P045	1792

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EXAMINER

SHINGLES, KRISTIE D

ART UNIT

PAPER NUMBER

2141

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/718,743

Applicant(s)

DUARTE ET AL.

Examiner

Kristie Shingles

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-10 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

*Per Applicant's Request for Continued Examination:
Claims 1, 4, 6, 23, 24, 27, 29 and 30 have been amended.
Claims 3, 11-22 and 31-40 have been cancelled.*

Claims 1, 2, 4-10 and 23-30 are pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/12/2006 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1, 23 and 29 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this paragraph made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1, 2, 4-10 and 23-30** are rejected under 35 U.S.C. 102(b) as being anticipated by *Nguyen* (US 5,797,089).

a. **Per claim 1**, *Nguyen* teaches a data processing device having a first operational mode and a second operational mode, the data processing device comprising:

- a plurality of control elements to perform a first plurality of defined functions when the data processing device is in the first operational mode and to perform a second plurality of defined function when the data processing device is in the second operational mode (col.3 line 37-col.4 line 22; provision for telephone functions in the telephone mode and PDA functions in the PDA mode),
- wherein the first operational mode is associated with a first physical orientation of the data processing device and the plurality of control elements and the second operational mode is associated with a second physical orientation of the data processing device and the plurality of control elements (col.3 line 37-col.4 line 22, col.5 lines 47-51, col.6 lines 17-20; the operational modes are associated the orientation of the device),
- wherein at least one of the plurality of control elements includes: a first glyph representing a designated one of the first specified functions, the first glyph being highlighted when the data processing device is in the first operational mode (col.4 lines 8-27, col.5 lines 15-18 and 49-51, col.6 lines 1-24; provision for icons and indicators to indicate the operational mode of the device); and
- a second glyph representing a designated one of the second specified functions, the second glyph being highlighted when the data processing device is in the second operational mode, wherein the data processing device automatically highlights the first glyph when in the operational mode and automatically highlights the second glyph when in the second operational mode (col.4 lines 8-27, col.5 lines 15-18, col.6 lines 1-24, col.6 line 45-col.7 line 21; provision for indicators and automatic enablement of functions when in the particular operation mode).

b. **Per claim 23**, *Nguyen* teaches a data processing device having a first operational mode and a second operational mode comprising:

- a first group of control elements to perform a first plurality of defined functions within a first physical orientation and to perform a second plurality of defined functions within a second physical orientation (col.3 line 37-col.4 line 22); and

- a motion sensor to detect the orientation of the data processing device, wherein the data processing device automatically switches from the first operational mode to the second operational mode in response to the motion sensor detecting the data processing device switching from the first physical orientation to the second physical orientation (col.4 lines 30-33, col.5 lines 56-67, col.7 lines 12-21; provision for detecting and determining the orientation of the device and enabling the associated functions for that particular operation mode).
- c. **Per claim 29**, *Nguyen* teaches a data processing device comprising:
- a first plurality of control elements associated with a first plurality of functions (col.3 line 37-col.4 line 22, col.5 lines 47-51, col.6 lines 17-20);
 - a second plurality of control elements associated with a second plurality of functions, wherein the second plurality of control elements is hidden from a user when the device is in a first orientation and when the device is in a third orientation (col.6 line 45-col.7 line 12; only enables the functions associated with the orientation & operating mode of the device); and
 - a third plurality of control elements associated with a third plurality of functions, wherein the second plurality of control elements is hidden from a user when the device is in the first orientation and when the device is in a second orientation (col.6 line 45-col.7 line 12; only enables the functions associated with the orientation & operating mode of the device).
- d. **Per claim 2**, *Nguyen* teaches the data processing device as in claim 1 further comprising: a display having a viewable display screen for rendering images generated by the data processing device, the display screen rendering images in a first orientation when the data processing device is in the first operational mode and rendering images in a second orientation when the data processing device is in the second operational mode (col.5 lines 24-25 and 47-53, col.6 lines 19-35).
- e. **Claim 24** is substantially similar to claim 2 and is therefore rejected under the same basis.

f. **Per claim 4**, *Nguyen* teaches the data processing device in claim 1 wherein each of the first glyphs are positioned on each of the control elements in a first orientation corresponding to the first orientation of the data processing device and each of the second glyphs are positioned on each of the control elements in a second orientation corresponding to the second orientation of the data processing device (col.5 lines 15-18, col.6 line 45-col.7 line 12).

g. **Claim 27** is substantially similar to claim 4 and is therefore rejected under the same basis.

h. **Per claim 5**, *Nguyen* teaches the data processing device as in claim 4 wherein the first orientation is rotated 90 degrees relative to the second orientation (col.3 lines 55-63).

i. **Claims 25 and 26** are substantially similar to claim 5 and are therefore rejected under the same basis.

j. **Per claim 6**, *Nguyen* teaches the data processing device as in claim 1 wherein the first operational mode comprise: a data entry mode and wherein the second operational mode comprises a telephony mode wherein the data processing device performs telephony-based functions (col.3 line 37-col.4 line 22, col.5 lines 23-45).

k. **Per claim 7**, *Nguyen* teaches the data processing device as in claim 6 wherein, when in the telephony mode, the second specified function for a group of the control elements is that of a numeric keyboard for entering telephone numbers (col.5 lines 23-25).

l. **Per claim 8**, *Nguyen* teaches the data processing device as in claim 7 wherein, when in the data entry mode, the first specified function for a group of the control elements is that of a cursor control keypad (col.4 lines 20-22).

m. **Per claim 9**, *Nguyen* teaches the data processing device as in claim 1 wherein the plurality of control elements includes a control wheel for moving a graphical cursor element when rotated in either the first operational mode and/or the second operational mode (col.4 lines 20-22).

n. **Per claim 10**, *Nguyen* teaches the data processing apparatus as in claim 9 wherein the plurality of control elements includes a plurality of keys and/or buttons (col.3 line 40, col.4 lines 20-22 and 48, col.5 lines 13-25).

o. **Per claim 28**, *Nguyen* teaches the data processing device as in claim 27 wherein the data processing device highlights the first glyph when in the first operational mode and highlights the second glyph when in the second operational mode (col.4 lines 8-16, col.5 lines 15-18, col.6 lines 1-24, col.6 line 45-col.7 line 21).

p. **Per claim 30**, *Nguyen* teaches the data processing device of claim 29 wherein a first operating mode is associated with the first orientation; a second operating mode is associated with the second orientation; and a third operating mode is associated with the third orientation (col.3 line 37-col.4 line 22, col.6 line 1-col.7 line 21).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Hiebel (6704585), Charlier et al (6729547), Claxton (6434371), Saarinen (6882335).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie Shingles whose telephone number is 571-272-3888. The examiner can normally be reached on Monday-Friday 8:30-6:00pm.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kristie Shingles
Examiner
Art Unit 2141

kds


RUPAL DHARIA
SUPERVISORY PATENT EXAMINER